(RSRTC Vs. Smt. Shanti Devi & Anr.)
S.B . CIVIL MISC. APPEAL NO.2018/2006

Date : 01.05.2007

HON'BLE MR. P.B.MAJMUDAR, J.

Mr.Arjun Singh for Sangeet Lodha, for the appellant.

By filing this appeal under Section 173 of the Motor Vehicles Act, 1988, the appellant RSRTC has challenged the judgment and award passed by the Motor Accident Claims Tribunal, Sri Ganganagar in MACT Case No. 123/2004 by which the Tribunal has awarded Rs. 1,26,000/- in favour of claimant-respondent No.1 as compensation.

The claim petition has been filed by the mother of deceased who died in the motor accident. It is the case of claimant respondent No.1 that on 29.3.2002 when deceased was going on foot, the bus of appellant being driven rashly and negligently hit the deceased and deceased was thrown away from road and due to said accident, he died. It is case of the claimant respondent that the accident had occurred in view of rash and negligent driving of the bus driver of the appellant Corporation and even FIR was also lodged immediately and the Driver has been put to criminal proceedings also. The claimant prayed for Rs. 48,40,000/- as compensation. The claim petition was resisted by appellant Corporation on the ground that the bus

in question was not involved in the accident.

It is the aforesaid award which is impugned at the instance of the Corporation.

I have heard the learned counsel for the appellant and also gone through the reasoning given by the learned Tribunal as also the record of proceedings.

In Para 10 of the award, the Tribunal has considered the question about involvement of the bus in question in the said accident and after considering the evidence of two eye-witnesses, it has been found that it is the very bus, which was involved in the accident. The Tribunal has also found in Para 11 that no satisfactory evidence has been led to substantiate his say by the Corporation that the said bus was not involved in the accident.

In my view the learned Tribunal has gone into the question of negligence in an appropriate manner and learned counsel for the appellant is also not in a position to satisfy the Court as to how the finding of fact arrived at by the Tribunal in connection with this aspect is not correct. Regarding quantum also in Para 17, after considering the evidence on record, the Tribunal has awarded the aforesaid amount.

Considering the aforesaid aspect, in my view, the learned Tribunal has correctly applied and principle and it cannot be said that the Tribunal has committed any error of law or of fact in passing the impugned award.

Accordingly, I do not find any substance in the appeal and hence the same is dismissed in limine.

(P.B.MAJMUDAR), J.

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